

DRAFT

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
MINUTES

September 11, 2014

Chairman T. Michalski called the meeting to order at 4:01 p.m. and roll was taken.

MEMBERS PRESENT: T. Michalski, B. Larson, L. Spataro, B. Mazade, S. Gawron, S. Wisneski, F. Peterson

MEMBERS ABSENT: J. Doyle, excused; B. Smith

STAFF PRESENT: M. Franzak, C. Brubaker-Clarke, D. Renkenberger

OTHERS PRESENT: M. Landis, Parmenter-O'Toole; M. Bear, 529 Houston Ave; C. Burnaw, 1475 Westwood Dr; C. McGuigan, Community Foundation for Muskegon County; Marcia Hovey-Wright, Muskegon resident and State Representative; J. EldenBrady, 1336 Spring St.; C. Price, 1351 W. Summit; C. Yothers, 1239 Terrace; V. Riegler, 1187 Washington, for Unity Church of Muskegon; R. Hesselink, 1187 Woodcrest; D. Warren, 126 Washington, Grand Haven MI

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of July 10, 2014 be approved, was made by S. Gawron, supported by F. Peterson and unanimously approved.

PUBLIC HEARINGS

Hearing, Case 2014-11: Staff-initiated request to amend Section 2313 (Community Gardens) of the zoning ordinance to replace it with an urban farming ordinance. C. Brubaker-Clarke provided background information on the history of community gardens and urban farming in the City of Muskegon. She stated that City staff and the City Attorney had spoken with many experts in this area to come up with the proposed ordinances presented to the Commission for their recommendation.

M. Franzak presented the staff report. There are some community garden organizations in the City who are working with schools and other non-profit organizations to donate/sell vegetables for their lunch programs. The current community gardens ordinance does not allow for the sale/donation of crops. This new ordinance will better define what can be sold/donated. It will also better define what types of structures will be allowed on site and defines the setback requirements. The Planning Commission is being asked to recommend one of the two versions to the City Commission for adoption: One version will allow commercial sales and one version will prohibit commercial sales. The version that prohibits commercial sales would still allow urban farms to accept donations from individuals or other non-profit organizations, as long as they are used to further sustain the operation and support the mission of the urban farm. City attorney Michelle Landis was present at the meeting to discuss the details of the Michigan Right to Farm Act, Generally Accepted Agricultural and Management Practices (GAAMPs), and other aspects that may come into play under the new ordinance. Planning Commissioners were provided with the current Community Gardens ordinance and two versions of the proposed Community Gardens, Urban Farms and Private Farms ordinance (one allowing commercial sales and one prohibiting commercial sales).

M. Franzak distributed to board members written comments he had received: Love Community Garden's

(LCG) letter indicated that they are not satisfied with several requirements of either version of the ordinance, and they submitted a proposed ordinance of their own; The Community Foundation and HEALTHY Muskegon team submitted a letter in support of an urban farming ordinance that permitted the sale of produce. M. Franzak stated that setbacks were an important consideration in urban farming, in order to keep tall crops from blocking the view of the street, and for safety reasons. B. Mazade asked how the ordinance proposed by LCG differed from the City's proposed ordinances. M. Franzak stated that the main differences had to do with setbacks and structures. B. Larson asked who would enforce the ordinance. M. Franzak stated that Planning staff would, similar to the way community gardens are currently handled. B. Larson asked if the ordinance would encourage or discourage farming. M. Franzak stated that the ordinance would merely lay out requirements to be followed for urban farms.

M. Landis stated that the major issue was the state's Right to Farm Act (RFA), and whether it would apply to urban farms in the City if commercial sales were allowed. If it did apply, it would take away local government's ability to regulate the farms. She stated that GAAMPs were geared toward large farms, regulating things such as livestock and pesticides. Most of the regulations listed in the proposed City ordinance are not addressed in GAAMPs. L. Spataro asked if the City would still be able to regulate livestock if the state asserted control under the RTF Act. M. Landis stated that a recent update to the GAAMPs gave local municipalities the right to regulate livestock. L. Spataro was also concerned with possible run-offs that may affect Muskegon Lake, since there had been so much effort put into getting the lake delisted as an area of concern. M. Landis stated that the legal concern was whether a local municipality could craft an ordinance to reflect local and specific needs of the community, and if allowing commercial farming would allow the state to take control. B. Mazade asked if commercial farming referred to sales. M. Landis stated that was correct—any sales would be viewed as commercial farming. T. Michalski asked if adopting the ordinance that disallowed commercial sales would exempt the City from outside controls. M. Landis stated that was correct—the state Right to Farm Act would not apply if commercial sales were not allowed.

The board listened to several comments during the public hearing, all of which supported allowing commercial sales of produce from urban farms. M. Bear spoke on behalf of Love Community Garden (LCG), who had been in existence for almost 10 years. She stated that they have always complied with City ordinance requirements, and she was disappointed that LCG was not asked to be involved in the process of crafting the new ordinance. She stated that allowing commercial sales of their produce would create more jobs, and was essential to keeping the garden sustainable. She disagreed with some requirements listed in the ordinances proposed by the City, including the side setbacks and the fencing-in of portable toilet facilities. C. Burnaw stated that she was an advocate for a healthy Muskegon, and was in favor of allowing commercial sales. She cited the potential to create jobs, introducing people to healthy eating habits, and sustainability of the farms as reasons to allow sales of produce. C. McGuigan represented the Community Foundation for Muskegon County. She stated that the Foundation had partnered with several health initiatives involving farming or gardening, and has provided grants as well. She stated that the organizations all had a goal of selling their produce, and urged the board members to recommend approval of the version of the ordinance allowing commercial sales. She asked that the process be paused to allow input from community farmers and others with an interest in promoting a healthy community. J. EldenBrady was in favor of allowing farmers to sell their produce. He had applied for a business license to do that but was denied, and he was now going through the appeal process. He stated that there was inconsistency in the way urban farms were handled, and he was hopeful that the City would encourage farming, not try to discourage it with an ordinance that was unclear or confusing. C. Price stated that she had an extensive background in urban farming policy. She was in favor of allowing commercial sales so that the farms could be self-supporting. She stated that the sample ordinance submitted by LCG was an excellent example of an urban farming ordinance. C. Yothers of McLaughlin Grows stated that commercial sales were crucial to a garden's sustainability, and hoped that Muskegon would become a leader in urban farming. Rep. M. Hovey-Wright stated that she was on the agricultural committee in Lansing, and that it was important to encourage local farming. She stated that the City of Detroit's urban farming ordinance was a good model to use, and she provided a copy of that to staff. M. Hovey-Wright

urged staff and the Planning Commissioners to support urban farms, including allowing the sale of produce. She stated that farms helped neighbors connect, which was important for the health of cities. V. Riegler submitted a letter from Unity Church of Muskegon in support of allowing commercial produce sales, stating that community gardens were beneficial to cities in many ways. R. Hesselink discussed food hubs and food miles, and was in favor of allowing commercial sales of urban farms produce. She cited local spending, job creation and supporting local businesses as reasons to allow commercial sales. D. Warren was a dietician and she was also in favor of allowing commercial sales. She stated that the urban farms could bring energy and jobs to Muskegon. She also stated that when applying for grants, the grantors always wanted to know how the project would be sustainable, and allowing sales of produce could accomplish that.

M. Landis responded to some legal issues that were brought up. She stated that the amendment to GAAMPs that was mentioned applied only to livestock, not to produce. Regarding the City of Detroit, although she did speak to someone from there when researching the City of Muskegon's proposed ordinance, GAAMPs do not apply to cities with population over 100,000. Therefore, Detroit did not have to deal with that issue, as Muskegon does. She reiterated that she had spoken to top officials at the Department of Agriculture, and it was clear that the state Right to Farm Act would apply if the City of Muskegon allowed commercial sales of produce. This would, in turn, usurp local authority to regulate farms in our community.

A motion to close the public hearing was made by B. Larson, supported by S. Wisneski and unanimously approved.

L. Spataro agreed that additional due diligence on this issue would be helpful. He stated that it was not about the City being for or against urban farming. The City had an obligation to ensure a livable community for all residents, and any commercial activity in a residential setting could have an adverse impact on people living there, including noise and traffic concerns. Therefore, it was important that the City be allowed to regulate the urban farms, and balance the needs of its residents. He suggested sending the issue back to staff for additional review. Board members discussed the process desired to come up with a revised ordinance to present. T. Michalski stated that he was in favor of allowing commercial sales, but had concerns about issues such as soil contamination. He asked board members to communicate their comments and concerns to staff before the next meeting. B. Mazade stated that the major issue was to allow commercial sales or not, and he suggested getting a sample ordinance distributed to Planning Commissioners to review first, before having another public hearing. C. Brubaker stated that the City did not have the time nor the staff to monitor things like soil contamination, and that was taken into consideration when drafting the ordinances presented today. S. Wisneski was also concerned about the inequalities of non-profit agencies competing with for-profit businesses, who had additional regulatory and tax restrictions. He also asked if the Health Department would need to be involved if sales were allowed.

A motion that this case be tabled until a future meeting so that staff could collect input and do further research on this issue was made by B. Larson, supported by L. Spataro and unanimously approved.

NEW BUSINESS

None.

OLD BUSINESS

None.

OTHER

None.

There being no further business, the meeting was adjourned at 5:20 p.m.